

SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
Jay B. Kasner  
Scott D. Musoff  
Four Times Square  
New York, New York 10036  
(212) 735-3000

Attorneys for Defendants Merrill Lynch & Co., Inc.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X		
IN RE MERRILL LYNCH & CO., INC.	:	Master File No.:
SECURITIES, DERIVATIVE AND ERISA	:	07-CV-9633 (LBS)(AJP)(DFE)
LITIGATION	:	
----- X		<b>ECF Case</b>
This Document Relates to:	:	
Derivative Action, 07-CV-	:	<b>Electronically Filed</b>
9696(LBS)(AJP)(DFE)	:	
----- X		

**NOTICE OF MOTION OF NOMINAL DEFENDANT MERRILL LYNCH & CO.,  
INC. TO DISMISS THE VERIFIED CONSOLIDATED AND AMENDED  
SHAREHOLDERS' DERIVATIVE COMPLAINT PURSUANT TO RULE 23.1**

PLEASE TAKE NOTICE that, upon the annexed Verified Consolidated and Amended Shareholders' Derivative Complaint in the above-captioned action, the Memorandum of Law in Support of Defendants' Motion to Dismiss Plaintiffs' Verified Consolidated and Amended Shareholders' Derivative Complaint; the accompanying Declaration of Jay B. Kasner, dated July 21, 2008; and all prior papers and proceedings herein, nominal defendant Merrill Lynch & Co., Inc., will move this Court, before the Honorable Leonard B. Sand, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, on a date and at a time designated by the Court, for an Order: (a) dismissing the Verified Consolidated and Amended Shareholders' Derivative Complaint with prejudice pursuant to Fed. R. Civ. P. 23.1 and (b) for such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
July 21, 2008

SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP

By: /s/ Jay B. Kasner  
Jay B. Kasner  
Scott D. Musoff  
Four Times Square  
New York, New York 10036  
(212) 735-3000

Attorneys for Nominal Defendant  
Merrill Lynch & Co., Inc.

TO:

David A.P. Brower  
**BROWER PIVEN**  
A Professional Corporation  
488 Madison Avenue  
Eighth Floor  
New York, New York 10022  
Telephone: (212) 501-9000  
Facsimile: (212) 501-0300

*Liaison Counsel and Executive Committee  
Counsel for Derivative Plaintiffs*

Joseph E. White, III  
Christopher S. Jones  
**SAXENA WHITE P.A.**  
2424 North Federal Highway  
Suite 257  
Boca Raton, FL 33431  
Telephone: (561) 394-3399  
Facsimile: (561) 394-3382

*Executive Committee Counsel for  
Derivative Plaintiff*

Francis A. Bottini  
**JOHNSON BOTTINI, LLP**  
655 W. Broadway  
Suite 1400  
San Diego, CA 92101  
Telephone: (619) 230-0063  
Facsimile: (619) 233-5535

*Executive Committee Counsel for  
Derivative Plaintiffs*

James N. Benedict  
George Canellos  
**MILBANK TWEED HADLEY & McCLOY LLP**  
One Chase Manhattan Plaza  
New York, New York 10005  
(212) 530-5000

*Attorneys for Defendant Ahmass Fakahany*

Dennis J. Block  
Gregory A. Markel  
Jason M. Halper  
**CADWALADER, WICKERSHAM  
& TAFT LLP**  
One World Financial Center  
New York, New York 10281  
(212) 504-6000

*Attorneys for Defendants Carol T. Christ,  
Armando M. Codina, Virgis W. Colbert,  
Alberto Cribiore, John D. Finnegan,  
Judith Mayhew Jonas, Joseph W. Prueher,  
Ann N. Reese and Charles O. Rossotti*

Michael Chepiga  
Paul C. Curnin  
**SIMPSON THACHER & BARTLETT LLP**  
425 Lexington Avenue  
New York, New York 10017  
(212) 455-20000

*Attorneys for Defendant E. Stanley O'Neal*

Richard D. Bernstein  
Michael R. Young  
**WILLKIE FARR & GALLAGHER LLP**  
787 Seventh Avenue  
New York, New York 10019  
Phone: (212) 728-8000

*Attorneys for Defendant Jeffrey N. Edwards*

Joseph S. Allerhand  
Jonathan D. Polkes  
**WEIL GOTSHAL & MANGES LLP**  
767 Fifth Avenue  
New York, New York 10153  
(212) 310-8000

*Attorneys for Defendant Gregory J. Fleming*